

REMARKS

The examiner objected to claim 21 because of a grammatical error, in line 4 of claim 21. Applicant has amended the claim to overcome the objection

The examiner rejected claims 1-30 and 32 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The examiner stated:

The term "competitive flight" in claims 1 and 21 is a relative terms that renders the claims indefinite. The term " competitive flight" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Because the term "competitive flight" is used, both claims 1, 21, the claims that depend from them (claims 2-20, 22-30 and 32), and the scope of the invention unclear.

The term "potential answer" in claim 1 is a relative term that renders the claim indefinite. The term "potential answer" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Because the term " potential answer" is used, claims 1, the claims that depend from it (claims 2-20), and the scope of the invention unclear.

The term "potential, actual availability response" in claim 21 is a relative term that renders the claim indefinite. The term "potential, actual availability response" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Because the term "potential, actual availability response" is used, claim 21, the claims that depend from it, (claims 22-30 and 32), and the scope of the invention unclear. The examiner is interpreting the response as an actual response.

Applicant has made amendments to the claims to remove antecedent basis errors, and indefinite language.

Although Applicant believes that the terms used in the claims were definite, Applicant has amended the claims to delete "potential." Applicant has also amended claim 1 to call for "a competitive flight to the airline flight." As amended, "competitive flight" is clear. Applicant contends that "competitive flight" as used in claim 21, e.g., "a competitor's flight that is a competitive flight to the airline flight" is clear. One of ordinary skill would easily understand the metes and bounds of claim 21.

Applicant contends that one of ordinary skill in the art would understand what applicant means by "competitive flight" as used in the claims, and one of ordinary skill would not need to resort to Applicant's specification, to see that competitive flight as used by Applicant refers to a flight that a competitor can offer to a requestor in place of a flight that the entity operating the system can offer to the requestor.

The examiner contends that: "the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention." However, to the extent that one of ordinary skill sought guidance from the specification, applicant's specification is replete with references and discussion pertaining to "competitive flight." For example, Applicant's specification at page 3, line 26 to page 4, line 4 states:

The filter 12 can have rules that allow the filter 12 to pass through those queries that correspond to flights supported by a user of the competitive availability system 10, as well as selected competitors of that user. Other criteria can also be used in the filter 12. The competitive availability system 10 produces a prediction of the availability of a seat on a competitor's flight or flights and how a competitor or competitors may respond to an availability request. The user of the competitive availability system 10 can decide whether and how to adjust its response from the availability system 74.

Accordingly, claims are definite and the rejection should be removed.

The examiner rejected claims 1-11, and 16-29 under 35 U.S.C. 103(a) as being unpatentable over Dilks et al (US 3,622,995) in view of Walker et al. (US 6,112,185)

The examiner stated:

As per claims 1, 17, 21, Dilks et al discloses: An availability predictor that predicts seating availability on a... flight/receiving by the computer system a request for availability of seating on an airline flight and executing in the computer system ... to predict the seating availability on a competitive flight, predict seating availability on a competitor's flight that is a competitive flight to the flight, (Col. 10, lines 20-22, means responsive to a request for a reservation for identifying reservation information, for an accommodation through a code, where it is shown

that an accommodation is an available seat on a flight in col. 12, lines 65-67, Col. 10, lines 23-26, providing reservation information in response to a request for a future accommodation or reservation).

An availability system that produces an actual availability response for a flight/receiving by the computer system an actual availability response for a flight/produce a potential, actual availability response for a flight,(col. 10, lines 17-19, providing information about actual reservations for accommodations stored in the system);

A computing system ... that compares the predicted answer from the availability predictor and the potential answer from the availability system to establish a decision with respect to actual availability system to establish a decision with respect to actual availability/comparing the predicted answer from the availability predictor and the potential answer from the availability system to establish a decision with respect to actual availability/compare the predicted answer and the potential, actual availability response to establish an actual seat availability answer/send the actual seat availability answer, (Col. 9, lines 26-33, shows system is logic-controlled, w/ Col. 10, lines 26-28, comparing reservation code with stored reservations, where granting the reserved accommodation represents the decision).

Dilks et al doesn't specifically disclose that the flights are competitive, but does disclose a system for storing a plurality of different numbered reservations for accommodations in Col. 3, lines 71-73.

However, Walker et al discloses:

Competitive flights, (col. 8, lines 22-25, discussion of competitors). Walker et al discloses this limitation in an analogous art for the purpose of showing that different offer rules apply to airlines according to the effect that competitors have on those airlines.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to incorporate competitive flights into an availability prediction system with the motivation of showing that flights may or may not be available based on flights that competitors have to offer.

The examiner takes the position that Dilks discloses all of the features of claim 1, but for the flights being competitive, for which the examiner relies on Walker et al.

Applicant contends that Dilks does not disclose any of the features of claim 1. The examiner contends that Dilks et al discloses: an availability predictor ... at (Col. 10, lines 20-22) as: "the means responsive to a request for a reservation for identifying reservation information, for an accommodation through a code." This language is a partial quote from an element of claim 10. The language does not describe or suggest an availability predictor. The examiner also references col. 12, lines 65-67, to support the availability predictor feature: "where it is shown that an accommodation is an available seat on a flight." However, lines 65-67 do not appear in Col. 12 of Dilks. In Col. 10, lines 23-26, the examiner contends that "providing reservation information in response to a request for a future accommodation or reservation," is

taught. This teaching has nothing whatsoever to do with an availability predictor, as recited in claim 1.

The examiner contends that "An availability system that produces an actual availability response for a flight/receiving by the computer system an actual availability response for a flight/produce a potential, actual availability response for a flight, is shown at col. 10, lines 17-19) for providing information about actual reservations for accommodations stored in the system." This teaching is not an availability system.

The examiner contends that the feature of "a computing system ... is taught at (Col. 9, lines 26-33 system is logic-controlled, w/ Col. 10, lines 26-28, comparing reservation code with stored reservations, where granting the reserved accommodation represents the decision)." Dilks does not teach the features of the decision logic. Rather, Dilks teaches automated on-line checking of numbered reservations. Availability answers for seat availability are not reservations. Again, this teaching has no relevance to the features of claim 1.

Walker et al does not cure the deficiencies Dilks. Walker merely discloses that airlines may have competitors and have information that should be secured from competitors. Walker does not have any notion of "competitive flights" and the combination of Walker et al. with Dilks does not suggest "competitive flights."

The examiner rejected claims 4, 10, 11, 20, 24, and 29 are rejected under 35 U.S.C. 103(a), as being obvious over Dilks et al (US 3,622,995), in further view of Walker (US 6,112,185).

Applicant does not understand the basis or need for a separate rejection of these claims since the examiner has applied the same references, as in the rejection above. Nevertheless, as the references fail to suggest the features of the respective base claims, these claims are also allowable over the references. In addition, since the main reference Dilks does not teach any of the features of the base claims, these claims, are generally allowable for reasons discussed of record.

The examiner rejected claims 12, 13, and 30 under 35 U.S.C. 103(a) as being obvious over Dilks et al (US 3,622,995), in further view of Walker (US 6,112,185), and in further view of Lynch et al (US 6,119,094).

The references fail to suggest the features of the respective base claims of these claims. In addition, since the main reference Dilks does not teach any of the features of the base claims, these claims, are generally allowable for reasons discussed of record.

The examiner rejected claims 14, 15, and 32 are rejected under 35 U.S.C. 103(a) as being obvious over Dilks et al (US 3,622,995), in view of Walker (US 6,112,185), and further view of Walker et al (US 5,897,620).

The references fail to suggest the feature of the respective base claims of these claims. In addition, since the main reference Dilks does not teach any of the features of the base claims, these claims, are generally allowable for reasons discussed of record.

Applicant has added new claim 33, which recites similar limitations as claim 24, but does not recite instructions to: "produce an actual availability answer for a flight." Claim 33 requires instructions to "compare the predicted answer and an actual availability answer." This claim is allowable since the art neither describes nor suggests instructions to determine a predicted answer for seating availability on a competitor's flight that is a competitive flight to an airline flight, compare the predicted answer and an actual availability answer to determine if the actual seat availability answer should be modified and modify the actual availability answer in accordance with the compare instructions.

Claims 34-37 are allowable with claim 33 and for analogous reasons as discussed above for corresponding claims.

Accordingly, the case is allowable over the cited art.

Given the lengthy prosecution of this application, early allowance of the case is requested.

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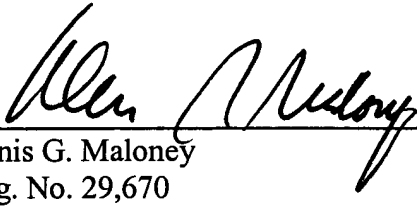
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Respectfully submitted,

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